

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MICHAEL RAKEMAN, BRIAN SCHIELE,
LUIS DELGADO, ROBERT TOLLIN, WILLIAM
MCCUTCHAN, JOHN NELSON FENRICH and
KEVIN BLANEY,

16-CV-00453 (ENV)(GRB)

Plaintiffs,

-against-

MLD MORTGAGE INC. and LAWRENCE DEAR,

Defendants.
-----X

DECLARATION OF JUSTIN M. REILLY, ESQ.

I, JUSTIN M. REILLY, ESQ., hereby declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an attorney at law duly licensed and in good standing to practice law in the courts of New York and am admitted to practice law in the United States District Court for the Eastern District of New York.

2. I am associated with Neil H. Greenberg & Associates, P.C., counsel for Plaintiffs, Michael Rakeman ("Rakeman"), Brian Schiele ("Schiele"), Luis Delgado ("Delgado"), Robert Tollin ("Tollin"), William McCutchan ("McCutchan"), John Nelson Fenrich ("Fenrich"), and Kevin Blaney ("Blaney"), in this action. As such, I have personal knowledge of the facts set forth in this Declaration.

3. I am over the age of 21, competent to testify, and if called to testify would do so consistent with all matters set forth herein.

4. Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment is submitted herewith.

5. Attached hereto as **Exhibit 1** is a true and accurate copy of Plaintiffs' Fed. R. Civ. P. 26 disclosures.

6. Attached hereto as **Exhibit 2** is a true and accurate copy of Defendants' automatic disclosures.

7. Attached hereto as **Exhibit 3** is a true and accurate copy of Michael Brooks' deposition transcript taken in the matter of *Veracka et al. v. MLD Mortgage Inc. et al.*, 16 CV 7152 (WFK)(AYS). I am the Plaintiffs' attorney in the *Veracka* matter and Keith J. Frank, Esq., MLD Mortgage Inc.'s ("MLD") New York litigation counsel, represents Defendants therein. Keith J. Frank, Esq. was a partner at Silverman Acampora, LLP. and is now a partner at Moritt, Hock & Hamroff, LLP. Mr. Frank's old firm could not represent Defendants herein because both Rakeman and Schiele were former clients of Silverman Acampora, LLP. Thus, Keith J. Frank, Esq. handpicked Raymond Nardo, Esq. to represent Defendants herein. In the *Veracka* matter, Keith J. Frank took the non-party depositions of Michael Brooks, John Veracka, and Denise Veracka and asked these witnesses numerous questions about the Plaintiffs herein. Thus, it was determined that taking these witnesses' depositions again in this action would have been duplicative.

8. Attached hereto as **Exhibit 4** is a true and accurate copy of John Veracka's deposition transcript in the *Veracka* matter.

9. Attached hereto as **Exhibit 5** is a true and accurate copy of Denise Veracka's deposition transcript in the *Veracka* matter.

10. Attached hereto as **Exhibit 6** is a true and accurate copy of Schiele's deposition transcript.

11. Attached hereto as **Exhibit 7** is a true and accurate copy of Rakeman's deposition transcript.

12. Attached hereto as **Exhibit 8** is a true and accurate copy of Fenrich's deposition transcript.

13. Attached hereto as **Exhibit 9** is a true and accurate copy of Blaney's deposition transcript.

14. Attached hereto as **Exhibit 10** is a true and accurate copy of Delgado's deposition transcript.

15. Attached hereto as **Exhibit 11** is a true and accurate copy of Tollin's deposition transcript.

16. Attached hereto as **Exhibit 12** is a true and accurate copy of David Zilberman's deposition transcript. Mr. Zilberman is the Executive Vice-President of MLD.

17. Attached hereto as **Exhibit 13** is a true and accurate copy of an employee list created by MLD and produced by MLD in discovery herein.

18. Attached hereto as **Exhibit 14** is a true and accurate copy of the Employment Agreement for Rakeman, dated February 20, 2014.

19. Attached hereto as **Exhibit 15** is a true and accurate copy of Rakeman's Earnings Statements for the year 2014.

20. Attached hereto as **Exhibit 16** is a true and accurate copy of Schiele's Employment Agreement, dated February 20, 2014.

21. Attached hereto as **Exhibit 17** is a true and accurate copy of Schiele's Earnings Statements for the year 2014.

22. Attached hereto as **Exhibit 18** is a true and accurate copy of Rakeman's and Schiele's compensation plan, dated January 1, 2015.

23. Attached hereto as **Exhibit 19** is a true and accurate copy of Schiele's Earnings Statements for the year 2015.

24. Attached hereto as **Exhibit 20** is a true and accurate copy of Rakeman's and Schiele's compensation plan, dated June 1, 2015.

25. Attached hereto as **Exhibit 21** is a true and accurate copy of Delgado's Employment Agreement, dated February 20, 2014.

26. Attached hereto as **Exhibit 22** is a true and accurate copy of Fenrich's Employment Agreement, dated April 3, 2014.

27. Attached hereto as **Exhibit 23** is a true and accurate copy of Blaney's Employment Agreement, dated February 20, 2014.

28. Attached hereto as **Exhibit 24** is a true and accurate copy of Rakeman's Earnings Statements for the year 2015.

29. Attached hereto as **Exhibit 25** is a true and accurate copy of funding reports for the loans that Rakeman and Schiele closed along with a damages calculation of the commissions that MLD owes them.

30. Attached hereto as **Exhibit 26** is a true and accurate copy of funding reports for some of the loans that Rakeman and Schiele closed.

31. Attached hereto as **Exhibit 27** is a true and accurate copy of David Zilberman's deposition transcript in the *Veracka* matter.


32. Attached hereto as **Exhibit 28** is a true and accurate copy of Lawrence Dear's transcript in the *Veracka* matter. I traveled to MLD's corporate headquarters in New Jersey to take the deposition of Lawrence Dear and Mr. Dear traveled from Florida to attend the deposition. Mr. Dear was represented by MLD's general counsel, Seth Kreiner, Esq. at this deposition. Given that

the same questions would have been asked of Mr. Dear at a deposition in this action with Seth Kreiner, Esq. again representing Mr. Dear, it was determined that taking such testimony would have been duplicative.

33. Attached hereto as **Exhibit 29** is a true and accurate copy of the deposition transcript of Xiomara Larrosa in the *Veracka* matter. Ms. Larrosa testified at a deposition in the *Veracka* matter while represented by MLD's general counsel, Seth Kreiner, Esq.

34. Attached hereto as **Exhibit 30** is a true and accurate copy of Administrator's Interpretation No. 2010-1, U.S. Department of Labor, Wage and Hour Division, <https://www.dol.gov/WHd/opinion/adminIntrprtn/FLSA/2010/FLSAAI2010_1.pdf>, dated

Dated: Massapequa, New York
January 10, 2020



Neil H. Greenberg & Associates, P.C.
By: Justin M. Reilly, Esq.
Attorneys for Plaintiffs
4242 Merrick Road
Massapequa, New York 11758
(516) 228-5100